

(1) There are data specifically indicating that the assessment of the annual fee will result in a significantly disproportionate allocation of costs to the licensee, or class of licensees; or

(2) There is clear and convincing evidence that the budgeted generic costs attributable to the class of licensees are neither directly or indirectly related to the specific class of licensee nor explicitly allocated to the licensee by Commission policy decisions; or

(3) Any other relevant matter that the licensee believes shows that the annual fee was not based on a fair and equitable allocation of NRC costs.

[56 FR 31505, July 10, 1991, as amended at 57 FR 32714, July 23, 1992; 58 FR 38695, July 20, 1993; 59 FR 12543, Mar. 17, 1994; 59 FR 36924, July 20, 1994]

§ 171.13 Notice.

The annual fees applicable to an operating reactor and to a materials licensee, including a Government agency licensee by the NRC, subject to this part and calculated in accordance with §§ 171.15 and 171.16, will be published as a notice in the FEDERAL REGISTER as soon as is practicable but no later than the third quarter of FY 1996 through 1998. The annual fees will become due and payable to the NRC in accordance with § 171.19 except as provided in § 171.17. Quarterly payments of the annual fees of \$100,000 or more will continue during the fiscal year and be based on the applicable annual fees as shown in §§ 171.15 and 171.16 of the regulations until a notice concerning the revised amount of the fees for the fiscal year is published by Commission.

[60 FR 32244, June 20, 1995]

§ 171.15 Annual Fees: Reactor operating licenses.

(a) Each person licensed to operate a power, test, or research reactor shall pay the annual fee for each unit for which the person holds an operating license at any time during the Federal FY in which the fee is due, except for those test and research reactors exempted in § 171.11 (a)(1) and (a)(2).

(b) The FY 1996 uniform annual fee for each operating power reactor which must be collected by September 30, 1996, is \$2,746,000. This fee has been determined by adjusting the FY 1995 an-

nual fee downward by approximately 6 percent. The FY 1995 annual fee was comprised of a base annual fee and an additional charge (surcharge). The activities comprising the base FY 1995 annual fee are as follows:

(1) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under 10 CFR Part 170 of this chapter.

(2) Research activities directly related to the regulation of power reactors.

(3) Generic activities required largely for NRC to regulate power reactors, e.g., updating Part 50 of this chapter, or operating the Incident Response Center.

(c) The activities comprising the FY 1995 surcharge are as follows:

(1) Activities not attributable to an existing NRC licensee or class of licensees; e.g., reviews submitted by other government agencies (e.g., DOE) that do not result in a license or are not associated with a license; international cooperative safety program and international safeguards activities; low-level waste disposal generic activities; uranium enrichment generic activities; and

(2) Activities not currently assessed under 10 CFR Part 170 licensing and inspection fees based on existing Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions, and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

(3) The FY 1991 surcharge to be added to each operating power reactor is \$266,000. This amount is calculated by dividing the total cost for these activities (\$29.0 million) by the number of operating power reactors (109).

(4) The FY 1992 surcharge to be added to each operating power reactor is \$281,000. This amount is calculated by dividing the total cost for these activities (\$30.6 million) by the number of operating power reactors (109).

(d) [Reserved]

(e) The FY 1996 annual fees for licensees authorized to operate a nonpower (test and research) reactor licensed under Part 50 of this chapter, except for those reactors exempted from fees under § 171.11(a), are as follows:

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Research reactor	\$52,800
Test reactor	\$52,800

(f) For FY 1992 through 1995 annual fees for operating reactors will be calculated and assessed in accordance with § 171.13 of this section.

[56 FR 31506, July 10, 1991; 56 FR 37828, Aug. 9, 1991; 57 FR 32714, July 23, 1992; 58 FR 38695, July 20, 1993; 59 FR 26098, May 19, 1994; 59 FR 36924, July 20, 1994; 60 FR 32244, June 20, 1995; 61 FR 16220, Apr. 12, 1996]

§ 171.16 Annual Fees: Material Licenses, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals and Government Agencies Licensed by the NRC.

(a) Person(s) who conduct activities authorized under

(1) 10 CFR part 30 for byproduct material;

(2) 10 CFR part 40 for source material, and

(3) 10 CFR part 70 for special nuclear material,

(4) 10 CFR part 71 for packaging and transportation of radioactive material, and

(5) 10 CFR part 72 for independent storage of spent nuclear fuel and high level waste:

shall pay an annual fee for each license, certificate, approval or registration the person(s) holds on the date the annual fee is due. If a person holds more than one license, certificate, registration or approval, the annual fee will be the cumulative total of the annual fees applicable to the licenses, certificates, registrations or approvals held by that person. For those licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

(b) The basis for the annual fee is the sum of NRC budgeted costs for each FY for those

(1) Generic and other research activities directly related to the regulation of materials licenses as defined in this part; and

(2) Other safety, environmental, and safeguards activities for materials licenses (except costs for licensing and inspection activities directly associ-

ated with plant-specific licensing and inspections that are recovered under part 170 of this chapter).

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification, the licensee may pay reduced annual fees for FY 1996 as follows:

	Maximum annual fee per licensed category
Small businesses not engaged in manufacturing and small not-for-profit organizations (gross annual receipts):	
\$350,000 to \$5 million	\$1,800
Less than \$350,000	400
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	1,800
Less than 35 employees	400
Small Governmental jurisdictions (Including publicly supported educational institutions) (population):	
20,000 to 50,000	1,800
Less than 20,000	400
Educational institutions that are not State or publicly supported, and have 500 employees or less:	
35 to 500 employees	1,800
Less than 35 employees	400

(1) A licensee qualifies as a small entity if it meets the size standards established by the NRC (See 10 CFR 2.810).

(2) A licensee who seeks to establish status as a small entity for purposes of paying the annual fees required under this section shall file a certification statement with the Commission. The licensee shall file the required certification on NRC Form 526 for each license under which it is billed. The NRC shall include a copy of Form NRC 526 with each annual fee invoice sent to a licensee for purposes of billing under this section. A licensee who seeks to qualify as a small entity shall submit the completed NRC Form 526 with the reduced annual fee payment.

(3) For purposes of this section, the licensee shall submit a new certification with its annual fee payment each year.

(4) For FY 1996, the maximum annual fee a small entity is required to pay is \$1,800 for each category applicable to the license(s).